

IN THE
SUPREME COURT OF PENNSYLVANIA

No. SS E.A.P. 1996

LINDA PARISANO DALRYMPLE,

Appellant,

v.

EUGENE BROWN,

Appellee.

BRIEF OF INTERNATIONAL SOCIETY FOR TRAUMATIC STRESS STUDIES,
FAMILY VIOLENCE AND SEXUAL ASSAULT INSTITUTE, SUPPORT CENTER
FOR CHILD ADVOCATES, PENNSYLVANIA COALITION AGAINST RAPE,
PENNSYLVANIA COALITION AGAINST DOMESTIC VIOLENCE,
WOMEN ORGANIZED AGAINST RAPE, NATIONAL ASSOCIATION OF SOCIAL
WORKERS, PENNSYLVANIA NATIONAL ORGANIZATION FOR WOMEN,
NORTHWEST WOMEN'S LAW CENTER, NOW LEGAL DEFENSE & EDUCATION
FUND, AND WOMEN'S LAW PROJECT, IN SUPPORT OF APPELLANT

Appeal from the Order of the Superior Court entered on February 21, 1996,
at No. 1628 Philadelphia 1995, affirming the Order of April 3, 1995 of the
Court of Common Pleas of Delaware County, Civil Division, No. 92-10026

LYNN HECHT SCHAFRAN*
YOLANDA WU*
JULIE GOLDSCHIED*
NOW Legal Defense
and Education Fund
99 Hudson Street
New York, New York 10013
(212) 925-6635

Of Counsel

*Not admitted to practice in Pennsylvania.

CAROL E. TRACY
I.D. No. 40258
LINDA J. WHARTON
I.D. No. 34741
SUSAN FRIETSCHKE
I.D. No. 65240
Women's Law Project
125 South Ninth Street, Suite 401
Philadelphia, PA 19107
(215) 928-9801

Attorneys for Amici Curiae

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INTEREST OF AMICI CURIAE

Amici are eleven non-profit organizations engaged in scientific research concerning child sexual abuse, advocacy on behalf of abused and neglected children, or direct services for sexual assault victims and their families.

Amici offer this brief to assist the Court in its deliberations by highlighting the nature of child sexual abuse and the traumatic amnesia caused by such abuse. Amici share a common interest in the application of the discovery rule in cases in which traumatic amnesia precludes the reasonable and diligent plaintiff from discovering his or her injury or its cause within the statutory time limit. If upheld, the decision of the Superior Court will deprive Pennsylvanians who have survived child sexual assault and other traumatic injuries of their civil remedies even when a reasonable person in the plaintiff's shoes could have discovered the injury only after a delay.

The individual statements of each amicus are contained in the Appendix to this brief.

STATEMENT OF JURISDICTION

Amici incorporate by reference the Statement of Jurisdiction set forth in the Brief for Appellant.

ORDERS IN QUESTION

Amici incorporate by reference the Orders in Question set forth in the Brief for Appellant.

STATEMENT OF THE QUESTION INVOLVED

Whether the discovery rule should toll the statute of limitations in child sexual abuse cases where a reasonable plaintiff could not have discovered her injuries or their cause within the period of the statute of limitations?

[Answered in the negative by the Superior Court.]

STATEMENT OF THE CASE

Amici incorporate by reference the Statement of the Case set forth in the Brief for Appellant.

SUMMARY OF ARGUMENT

In affirming the entry of summary judgment against the plaintiff in this case, the court below based its opinion on a fundamental misunderstanding of child sexual abuse. The court confused sexual assault inflicted upon small children with ordinary battery, and then dismissed the traumatic amnesia inflicted by child abusers upon their victims as the result of the victims' own "mental incapacity" rather than the nature of the injury itself. In fact, it is not uncommon for the injuries inflicted through child sexual abuse to prevent victims from promptly discovering their injuries or the cause of those injuries. The traumatic amnesia sometimes caused by such abuse is an ordinary human reaction to extraordinary trauma, encountered not only in adult survivors of child sexual abuse, but also in war veterans, political refugees, and concentration camp survivors.

In a host of analogous circumstances in cases involving medical malpractice, latent defects in construction, and other hidden negligence where no amount of diligence on the plaintiff's part could have revealed his or her injuries sooner, Pennsylvania courts have regularly applied the discovery rule to toll the statute of limitations. Like all other innocent and reasonably diligent victims of injuries which are by their very nature

unknowable for a period of time, Ms. Dalrymple should be permitted her day in court. In light of the ineffectiveness and unavailability of other civil and criminal remedies for these horrific crimes, for this Court to refuse to apply the discovery rule in child sexual abuse cases would immunize an entire class of abusers and create a safe haven for the perpetrators of a devastating and vicious wrong.

ARGUMENT

1. APPLYING THE DISCOVERY RULE IN THE CONTEXT OF CHILD SEXUAL ABUSE IS FULLY CONSISTENT WITH THIS COURT'S WELL-ESTABLISHED PRECEDENT.

A. Introduction

For thousands of children in Pennsylvania, sexual abuse is a tragic, traumatic, and all too frequent experience. The abuse takes many forms, including fondling, masturbation, vaginal intercourse, oral-genital contact, oral-anal contact, and anal intercourse. Such coerced sexual relationships may leave painful physical traces, but bruises and other wounds are not always evident. Far more detrimental and long-lasting are the emotional injuries inflicted by the perpetrator, who is often a trusted adult.

Although widely thought to be underreported,' the following figures highlight the alarming incidence and prevalence of sexual victimization of children:

- * Child sexual abuse is a problem of horrifying proportions in Pennsylvania. In 1995, sexual abuse occurred in 44.9% of the 6,891 substantiated reports of child abuse.'

' Researchers believe that the incidence of child sexual abuse is greatly underreported. One study revealed that only 6% of identified cases of extrafamilial child sexual abuse were ever reported to the police and only 2% of cases of intrafamilial abuse were reported. Diana E. H. Russell, The Secret Trauma 85 (1986). Other experts believe that only half, or even fewer, of all child sexual abuse cases are reported to public authorities. Rather than report the assault to police, many families will try to prevent further acts of abuse by separating the child from the perpetrator or by trying to persuade the perpetrator to stop. Karen L. Kinnear, Child Sexual Abuse: A Reference Handbook 6 (1995).

' Pennsylvania Dep't Pub. Welfare, Child Abuse Report 4 (1995). It is important to note that the Department of Public Welfare investigates only those reports that involve potential abuse by a caretaker or other person responsible for the welfare of a child, not

- * Last year, over 3,000 reports of sexual abuse of children were substantiated in Pennsylvania.¹ Twenty-two percent of these children were boys, and 78% were girls.
- * According to an American Psychological Association Taskforce review of data, 16-34% of women and 5-10% of men in the United States were victims of sexual abuse as children.⁴ Furthermore, approximately one-third of all sexual abuse cases involved children younger than six years of age.⁵
- * A landmark study of 930 women in San Francisco found that 38% of the women reported being sexually abused at least once prior to age 18; 28% reported sexual abuse prior to age 14.⁶
- * A Los Angeles Times nationwide telephone poll discovered that 22% of the 2,627 men and women interviewed had been sexually molested as children. Sexual abuse at the hands of friends and acquaintances occurred nearly twice as often as abuse by relatives.⁷

Tragically, even these high numbers do not accurately reflect the scope of sexual victimization of children because of the hidden nature of the abuse. Secrecy shrouds the abusive relationship, protecting the perpetrator and stifling the child.⁸ Abusers often rely on fear to keep the child silent by making threats to harm not only the child but also the

abuse by individuals outside the household. 23 Pa. Cons. Stat. Ann. § 6303(a) (Supp. 1996).

³ Pennsylvania Dep't Pub. Welfare, supra note 2.

⁴ American Psychological Association, Violence and the Family [hereinafter APA Violence Report] 12 (1996).

⁵ Id. at 47.

⁶ Diana E. H. Russell, supra note 1, at 61.

⁷ Lois Timnick, 22% in Survey Were Child Abuse Victims, L.A. Times, Aug. 25, 1985, at 1.

⁸ Karen L. Kinnear, Child Sexual Abuse: A Reference Handbook 6 (1995).

people the child loves most.' The hidden character of child sexual abuse is further compounded by the violation of trust and security felt by the abused child, who is powerless to stop the assaults.¹⁰

B. The Nature of the Injuries Inflicted by Child Sexual Abuse Causes Delayed Discovery.

The Superior Court was incorrect in holding that it was the plaintiffs own mental incapacity, and not the nature of the injury itself, that impaired her ability to discover the injuries or their cause. J.A. 247a. As discussed in detail below, Ms. Dalrymple reacted to the abuse in a manner that has been widely documented in the scientific community as well within the normal range of responses to violent sexual abuse. Moreover, an important body of scientific research shows that adult survivors of childhood sexual abuse exhibit responses similar to those of survivors of a variety of other sources of trauma.

1. Amnesia Following Child Sexual Abuse Is Not a Form of Mental Illness, But Rather Well Within the Normal Range of Responses to Intolerable Trauma.

When sexual abuse is committed by a trusted adult, the sexually-abused child experiences a flood of emotions and general confusion regarding the nature of the relationship. Liz Hall & Siobhan Lloyd, Surviving Child Sexual Abuse: A Handbook for Helping Women Challenge Their Past 49, 87-89 (1989). The abuse has many devastating initial and long-term effects: depression, phobias, guilt, self-destructive impulses, and low self-esteem. Angela Browne & David Finkelhor, Impact of Child Sexual Abuse: A Review of the Research, 99 Psychol. Bull. 66 (1986); APA Violence Report, supra note

' Id.; Judith Lewis Herman, Trauma and Recovery 98 (1992).

¹⁰ Herman, su ra note 9, at 96.

4, at 55; Diana M. Elliott & John Briere, Posttraumatic Stress Associated with Delayed Recall of Sexual Abuse: A General Population Study, 8 J. Traumatic Stress 629 (1995). Anxiety problems are particularly common, manifesting as physical ailments such as headaches, dizziness, insomnia, as well as behavioral disruptions, notably irritability, restlessness, and panic attacks. Hall & Lloyd, supra, at 48, 51-52; Lucy Berliner & J. Robert Wheeler, Treating the Effects of Sexual Abuse on Children, 2 J. on Interpersonal Violence 415, 417 (1987). Adult survivors of sexual abuse may also have problems with sexual functioning, substance abuse, eating disorders, and engaging in healthy interpersonal relationships. APA Violence Report, supra note 4, at 55.

In addition to these long-term effects, some survivors experience extreme difficulty in recalling the events surrounding their abuse. " Rather than a mental incapacity or a sign of mental illness, amnesia is within the normal range of responses to overwhelming and abnormally stressful events. Amnesia occurs not through the loss of existing memories but because the experience is remembered in such a way that the individual cannot recall and verbalize it. " Instead of remembering the experience as a combination of linguistic and sensory impressions -- as the brain records memories of ordinary events -- individuals confronting highly stressful situations retain memories primarily of their sensory

" Briere & Conte, supra, at 26; Herman, supra note 9, at 10

" Bessel A. van der Kolk, Trauma and Memory, in Traumatic Stress: The Effects of Overwhelming Experience on Mind, Body & Society 279, 282 (van der Kolk et al. eds., 1996). Dr. van der Kolk, a Harvard psychiatrist who specializes in research on how the brain responds to and remembers traumatic events, writes, "[f]or the past century, many students of trauma have noted that the imprints of traumatic experiences seem to be qualitatively different from memories of ordinary events."

impressions. van der Kolk, supra note 12, at 296. These sensory impressions are retained but are sometimes inaccessible to survivors of abuse. They then may be recalled after a lengthy delay, often because they have been "triggered" by factors that are similar to the stored impressions. Visual images, sounds, smells, tactile sensations, and emotions can all be factors in triggering memories of the the stored information. Bessel A. van der Kolk, Traumatic Memories, in Trauma and Memory in Clinical and Forensic Settings (Paul Applebaum & Mark Elan, eds.) (forthcoming June 1997) (manuscript at 10, 15)."

Several factors appear to increase the likelihood of amnesia: threats, initial age of the child, severity of abuse, use of force, and duration of abuse. van der Kolk, Traumatic Memories, supra at 9; Judith Lewis Herman & Emily Schatzow, Recovery and Verification of Memories of Childhood Sexual Trauma, 4 Psychoanalytic Psychol. 1 (1987). Two researchers discovered that "abuse-specific amnesia was associated with violent abuse (e.g., involving physical injury (and] fears of death if the abuse was disclosed)." John Briere & Jon Conte, Self-Reported Amnesia for Abuse in Adults Molested as Children, 6 J. Traumatic Stress 21, 26 (1993). More recently; researchers determined that individuals who reported delayed recall of child sexual abuse "were more

¹³ For a more thorough description of the biological framework of the brain as it relates to memory, see Cynthia Grant Bowman & Elizabeth Mertz, A Dangerous Direction: Legal Intervention in Sexual Abuse Survivor Therapy, 109 Harv. L. Rev. 551, 600-604 (1996) (reviewing recent research on how physiological processes affect storage and recovery of memories of highly stressful conditions). Current research into the brain's reaction to repeated traumatic stress during childhood development further elucidates the relationship between terrifying experiences and periods when memories are unretrievable. See e.g., Bruce D. Perry, Neurodevelopment and the Neurophysiology of Trauma I: Conceptual Considerations for Clinical Work with Maltreated Children, 6 The Advisor (Am. Prof. Soc'y on Abuse Children, Chicago, Ill.), Spring 1993, at 1.

likely to have been threatened with harm by their perpetrator." Elliott & Briere, *supra*, at 640.

Until the stored information associated with the traumatic experience is stimulated by emotions or sensory perceptions, amnesia will continue." A correlation appears to exist between the age at which a child is abused and when he or she seeks treatment for the abuse. Kathleen A. Kendall-Tackett, Characteristics of Abuse That Influence When Adults Molested As Children Seek Treatment, 6 J. Interpersonal Violence 486, 491 (1991). A developmental psychologist who explored this connection found that the younger the children when they were first subjected to abuse, the later in life they sought treatment. *Id.* On average, seventeen years passed between the last incident of abuse and the survivor's first contact with treatment. *Id.* at 488. Astoundingly, but consistent with other observations of traumatic amnesia, eight of the study participants waited forty years or longer before seeking treatment. *Id.* at 489.

Numerous studies consistently document the existence of traumatic amnesia in adults in the wake of childhood sexual abuse. One of the most significant studies compares adult survivors' recollections of documented child sexual abuse with medical and research records completed more than a decade earlier when the survivors, who were then children, appeared at a major city hospital for treatment. The study revealed that 62% of the women who were four to six years old at the time of the abuse, and 28% of the women who were seven or older, did not recall the previously recorded incident of abuse. Linda Meyer Williams, Recall of Childhood Trauma: A Prospective Study of Women's

¹⁴ "Amnesia ... may last for hours, weeks, or years." van der Kolk, Traumatic Memories, *supra*, at 9.

Memories of Child Sexual Abuse, 62 J. Consulting and Clinical Psychol. 1167, 1171 (1994).

In a study of adult survivors of child sexual abuse in the general population, 42% of those who had been sexually abused reported some period of time when they had not been able to remember facts about the abuse. Twenty percent of the survivors noted that they had experienced complete amnesia about the abuse sometime during their lives. Elliott & Briere, *supra*, at 640. Another noteworthy study revealed that 19% of the participants reported amnesia regarding the abuse for a period of time after they were sexually abused as children, while an additional 12% reported partial amnesia. Elizabeth F. Loftus et al., Memories of Childhood Sexual Abuse, 18 Psychol. Women Q. 67, 78 (1994). These studies verify that amnesia is not an uncommon response to the trauma of being sexually violated as a child.

Substantial research findings demonstrate that traumatic amnesia is a natural response to incidents of horrendous abuse. Indeed, the professionals who encounter adult survivors of child sexual abuse have found that amnesia is just one of the injuries sustained by sexually-victimized children. The American Psychiatric Association has explicitly recognized that acts of child sexual abuse can produce delayed recall of the abuse by the victimized child. In its Statement on Memories of Sexual Abuse (1994), the Association noted:

Children and adolescents who have been abused cope with the trauma by using a variety of psychological mechanisms. In some instances, these coping mechanisms result in a lack of conscious awareness of the abuse for varying periods of time. Conscious thoughts and feelings stemming from the abuse may emerge at a later date.

In light of these findings, Ms. Dalrymple's inability to discover or be aware of her injuries promptly is entirely reasonable.

2. Delayed Recall of Memories of Traumatic Experiences Has Been Widely Documented in Many Contexts

For nearly a century, mental health experts have observed that individuals exposed to a variety of traumatic events are not able to recall what they witnessed.' Physicians, psychologists, and social workers have recorded their findings of traumatic amnesia in survivors of war trauma, the Holocaust, political terrorism, and natural disasters.¹⁶

'' Pierre Janet, a pioneer in psychotherapy, wrote of his earlier encounters with traumatic memory loss:

Unfortunately, it soon became apparent to me that many of the most important traumatic memories might be imperfectly known by the subject, who was unable to give a clear account of the matter even when he tried to do so.... [T]he patient preserved [memories] in his mind without being aware of them.

Pierre Janet, Psychological Healing 1594 (E. Paul & C. Paul trans., 1925).

¹⁶ Two scientists have noted:

It appears that as long as men were found to suffer from delayed recall of atrocities committed either by a clearly identifiable enemy or by themselves, [delayed retrieval of memories] was not controversial. However, when similar memory problems started to be documented in girls and women in the context of domestic abuse, the news was unbearable; when female victims started to seek justice against their alleged perpetrators, the issue moved from science into politics.

Alexander C. McFarlane & Bessel A. van der Kolk, Conclusions and Future Directions, in Traumatic Stress: The Effects of Overwhelming Experience on Mind Body & Society 559, 566 (van der Kolk et al. eds., 1996).

It is well documented that war veterans have suffered amnesia as a result of experiencing horrific events at close range. Psychiatrists reported substantial loss of memory by soldiers in both World War I and World War II returning from battlefields where they had been surrounded by exploding shells and had witnessed the violent deaths of companions. Charles S. Myers, A Contribution to the Study of Shell Shock, *The Lancet*, Feb. 13, 1915, at 316; Douglas A. Thom & Norman Fenton, Amnesia in War Cases, 76 *Am. J. Insanity* 437 (1920). In a review of World War H combat soldiers, doctors found that 144 of 1,000 patients demonstrated loss of memory as a prominent response to war-time stress. William Sargant & Eliot Slater, Amnesic Syndromes in War, 34 *Proceedings Royal Soc'y Med.* 47 (1941); see also J.L. Henderson & Merrill Moore, The Psychoneuroses of War, 230 *New Eng. J. Med.* 273 (1944) (reporting "severe amnesia" among male patients admitted to *Army* hospital in South Pacific during World War II). Some veterans of the Vietnam War have likewise lost their memories of combat-related events. See J. Douglas Bremner et al., Dissociation and Posttraumatic Stress Disorder in Vietnam Combat Veterans, 149 *Am. J. Psychiatry* 328, 331 (1992) (quoting one veteran as saying, "After I saw my buddy hit, something inside of me died, and I don't remember anything that happened after that. ").

Problems with memory loss have also been studied in adults who survived the Holocaust as children. As with other individuals who have experienced memory loss after traumatic events, Holocaust survivors have found their memories triggered by reminders of the events they witnessed. Robert Krell, Child Survivors of the Holocaust, 38 *Can. J. Psychiatry* 384, 386 (1993). Dr. Krell described the memories of child survivors as

"emotionally powerful and painful" and becoming "more frequent with time and ... triggered by thousands of subtle and not so subtle events." Id. Similar evidence of traumatic amnesia appears in recent studies of people fleeing physical violence and massive community destruction in their native countries. A research team, comprised of six doctors and a social worker, repeatedly documented both total and partial amnesia in male and female Bosnian refugees who escaped a campaign of ethnic cleansing to resettle in the United States. Stevan M. Weine et al., Psychiatric Consequences of "Ethnic Cleansing": Clinical Assessments and Trauma Testimonies of Newly Resettled Bosnian Refugees, 152 Am. J. Psychiatry 536, 538 (1995); see also Anne E. Goldfeld, The Physical and Psychological Sequelae of Torture, 259 JAMA 2725, 2727 (1988) (identifying memory loss as common symptom of patients who survived torture); J. David Kinzie, Posttraumatic Effects and Their Treatment Among Southeast Asian Refugees, in Int'l Handbook of Traumatic Stress Syndromes 311, 312 (1993) (documenting traumatic amnesia in Cambodian, Vietnamese, Laotian, and Mein refugees).

Even natural disasters create sufficient psychological alarm such that memory loss results. See e.g. Stephen J. Dollinger, Lightning-Strike Disaster Among Children, 58 Brit. J. Med. Psychol. 375 (1985) (reporting that two children who witnessed lightning striking and killing another child had no memory of event).

Consistent with research on survivors of sexual abuse, trauma experts have noted that memories of the event that induced amnesia often do not surface for prolonged periods of time. Dr. van der Kolk chronicled the treatment history of a patient who escaped a severe and deadly nightclub fire in 1942 but did not recover memories of the

traumatic experience until thirty-nine years later. Bessel A. van der Kolk & William Kadish, Amnesia, Dissociation, and the Return of the Repressed, in Psychological Trauma 173, 185 (Bessel A. van der Kolk ed.) (1987). Likewise, research on World War II veterans revealed that problems with memory, among other symptoms of combat stress, lasted more than a decade after military action. Herbert C. Archibald & Read D. Tuddenham, Persistent Stress Reaction After Combat, 12 Arch. Gen. Psychiatry 475 (1965).

C. The Discovery Rule Applies in Cases Where, As Here, the Plaintiff's Injury by Its Very Nature Prevents Her from Discovering the Injury or Its Cause.

Where the nature of the injury renders a reasonable person in the position of the plaintiff unable to discover the injury or its cause, Pennsylvania courts have regularly invoked the discovery rule to toll the statute of limitations. Under this rule, the statute of limitations is tolled until "the plaintiff knows or reasonably should know: (1) that he has been injured, and (2) that his injury has been caused by another party's conduct." Redenz by Redenz v. Rosenberg, 360 Pa. Super. 430, 434, 520 A.2d 883, 885, alloc. denied, 516 Pa. 635, 533 A.2d 93 (1987); see also Pocono Int'l Raceway v. Pocono Produce, Inc., 503 Pa. 80, 85, 468 A.2d 468, 471 (1983) (discovery rule applies when "no amount of vigilance" could have enabled plaintiff to discover injury or its cause within limitations period) (citation omitted). Because even the most diligent plaintiff cannot be expected to investigate an injury before it is possible for her to know that she has been injured, Pennsylvania courts toll the limitations period until the injured party "possesses sufficient critical facts to put him on notice that a wrong has been committed and that he need

investigate to determine whether he is entitled to redress." A. McD. v. Rosen, 423 Pa. Super. 304, 308, 621 A.2d 128, 130 (1993) (citations omitted); see also Bradley v. Ragheb, 429 Pa. Super. 616, 624, 633 A.2d 192, 196 (1993) ("The polestar of the Pennsylvania discovery rule is not a plaintiff's actual acquisition of knowledge but whether the information, through the exercise of due diligence, was knowable to the plaintiff").

Pennsylvania courts and federal courts applying Pennsylvania law have recognized and applied the discovery rule in a broad array of circumstances, ranging from cases involving hidden underground injuries, Smith v. Bell Tel. Co., 397 Pa. 134, 153 A.2d 477 (1959), to medical malpractice cases, Ayers v. Morgan, 397 Pa. 282, 154 A.2d 788 (1959), to "creeping diseases" such as asbestosis, Trieschock v. Owens Coming Fiberglas Co., 354 Pa. Super. 263, 511 A.2d 863 (1986), to hidden defects in construction, A.J. Aberman, Inc. v. Funk Bldg. Corp., 278 Pa. Super. 385, 420 A.2d 594 (1980).¹¹ Most recently, a federal district court applied the discovery rule in a negligence action against a corporation's former directors under the doctrine of adverse domination. Resolution Trust Corp. v. Farmer, 865 F. Supp. 1143 (E.D. Pa. 1994) (tolling statute of limitations for period during which corporate plaintiff is controlled by alleged wrongdoers). In all of these cases, the "inherently unknowable" character of the injury governed the application of the discovery rule. *Id.* at 1155 (quoting O'Brien v. Eli Lilly & Co., 668 F.2d 704, 705-06 (3d Cir. 1981)).

¹¹ But see Pastierik v. Duquesne Light Co., 514 Pa. 517, 526 A.2d 323 (1987) (declining to apply discovery rule in wrongful death actions where statute that required such actions to be commenced within set period of time after date of death left no room for judicial construction).

As set forth supra, Sect. IB, the injuries inflicted by traumatic child sexual abuse are "inherently unknowable" to the victim for many years. The delayed effect of child sexual abuse is analogous to the delay in the manifestation of a latent injury. Furthermore, because severely traumatic abuse inflicts the very amnesia that prevents early detection, no amount of vigilance on the part of the victim can alert her to her injury or its cause. Pennsylvania courts have traditionally tolled the statute of limitations under closely analogous circumstances:

[W]here knowledge is impossible because of the laws of nature, or because of the actual fraud or concealment of the wrongdoer, or where it is impractical to impose on one who has been wronged the duty to explore and ferret out the undetectable act of the wrongdoer, the statute should begin to run from the time discovery of the injury is made.

Med-Mar. Inc. v. Dilworth, 214 Pa. Super. 402, 407, 257 A.2d 910, 913 (1969). As set forth supra, as the laws of nature operate on the mind of a six- to eight-year-old child suffering unendurably brutal and terrifying abuse, the injuries inflicted by the abuser are as undetectable as the hidden defects and latent illnesses to which the discovery rule has long applied. The application of the discovery rule to cases involving adult survivors of child sexual abuse is therefore a logical and necessary extension of Pennsylvania precedent. Indeed, the legislative history of Pennsylvania's minority tolling statute indicates that the General Assembly was uniquely concerned with protecting access to the civil justice system for survivors of child sexual abuse: "This protection of the minor's legal rights is especially important in child sexual abuse cases." Pa. Sen. J. 2195 (May 21, 1984) (statement of Sen. O'Pake) (emphasis added). To decline to apply the discovery rule to child sexual abuse cases would impose a singularly harsh and rigid construction on the

statute of limitations disadvantaging the very class of plaintiffs that the legislature has identified as worthy of protection.

It is particularly appropriate to apply the discovery rule where, as here, the plaintiffs inability to discover her injuries was caused by the defendant's wrongful conduct. See Glus v. Brooklyn E. Dist. Terminal, 359 U.S. 231, 232 (1959) ("[N]o man may take advantage of his own wrong."). Where "tortfeasors are responsible, not only for the original trauma, but also for plaintiff s inability to assert her claims sooner, the alleged tortfeasors should not be heard to complain of the prejudicial delay." Hewczuk v. Sambor, 803 F. Supp. 1063, 1065 (E.D. Pa. 1992). In Hewczuk, which involved remarkably similar facts to those presented by this case, the plaintiff alleged that she had been sexually assaulted at the age of six or seven by her foster parents, and filed suit against them shortly after becoming aware of the assaults many years later. The defendant moved for summary judgment, asserting that the plaintiff s claims were time-barred. The court denied the defendant's motion, reasoning that a survivor of child sexual abuse should not be deprived of the opportunity to assert her claim when her delay in discovering her injuries was due to traumatic amnesia inflicted by the defendant. *Id.*

Apparently rejecting the logic of Hewczuk, the decision of the lower court in this case seems to rest in part on the conclusion, unsupported by the record, that Ms. Dalrymple's amnesia rendered her mentally incapacitated. R. 247a. Relying principally upon A. McD. v. Rosen, 423 Pa. Super. 304, 621 A.2d 128 (1993), and Seto v. Willits, 432 Pa. Super. 346, 638 A.2d 258 (1994), the court concluded that "it was plaintiffs own mental incapacity, and not the nature of the injury itself' which delayed discovery. R.

247a. Yet the mere fact that a plaintiff has experienced traumatic amnesia should not bar the application of the discovery rule. The record is devoid of any evidence that Ms. Dalrymple was or is "insane" within the meaning of 42 Pa. Cons. Stat. Ann. § 5533(a) (Supp. 1996) (no tolling of statute for insanity or imprisonment). To the contrary, she reacted to the abuse in a manner that has been widely documented as a common response to trauma of this intensity and type. See supra Sect. IB. As Judge Fullam noted, "It is not at all unreasonable to suppose that a child of such tender years, with her limited experience in life, would not understand that her `parents' were mistreating her; nor is it unreasonable to suppose that these horrors would be totally repressed and excluded from her consciousness." Hewczuk, 803 F. Supp. at 1065. As discussed supra, it is well-documented that a reasonable child, abused as cruelly as Ms. Dalrymple allegedly was, would respond as many war veterans, concentration camp survivors, and torture victims have responded: with the protective reflex of traumatic amnesia.¹⁸ In any event, the plaintiff's mental state is a material fact sharply disputed by the parties; this disputed fact alone should have precluded the entry of summary judgment. See Hayward v. Medical Ctr., 530 Pa. 320, 327, 608 A.2d 1040, 1043 (1992) (reversing summary judgment where "reasonable minds could differ" on when injury was ascertainable).

" Research indicates that survivors are especially harmed by violent sexual abuse that involves a high degree of physical violation (such as vaginal, anal or oral penetration). Herman et al., Long-Term Effects of Incestuous Abuse in Childhood, 143 Am. J. Psychiatry 1293, 1295 (1986); Joseph H. Beitchman et al., A Review of the Long Term Effects of Child Sexual Abuse, 16 Child Abuse & Neglect 101, 113-14 (1992); Leslie Young, Sexual Abuse and the Problem of Embodiment, 16 Child Abuse & Neglect 89, 90 (1992). Ms. Dalrymple alleges that she experienced violent, highly violative abuse, R. 15a-16a (Plaintiff's Amended Complaint at IN 12-15), which indicates that her abuse is likely to have been particularly damaging.

Alternatively, even if Ms. Dalrymple's traumatic amnesia were found to constitute a form of "mental incapacity" within the meaning of § 5533(a), while the statute cannot be tolled "solely" because of a plaintiff's mental incapacity, "mental disabilities caused by a defendant may be considered in evaluating the reasonableness of plaintiff's diligence." Person v. Kieffer, 634 F. Supp. 892, 893-94 (E.D. Pa. 1986) (emphasis added). The Hewczuk court was persuaded that, "even though a plaintiff's physical or mental disability does not ordinarily toll the statute, where the inability to discover the trauma is due to the nature of the original injury itself, the statute is tolled; in such cases, it is the tortfeasor who caused both the original harm and the inability to discover." Hewczuk, 803 F. Supp. at 1064; see also Greenberg v. McCabe, 453 F. Supp. 765, 769 (E.D. Pa. 1978) ("At issue is the objective effect of the defendant's treatment on discoverability by a reasonable person.... [T]he statutory period does not begin to run if the fact-finder concludes that the plaintiff's failure of discovery, objectively determined, is brought about by the very nature of the defendant's conduct."), aff'd, 594 F.2d 854 (3d Cir.), cert. denied, 444 U.S. 840 (1979).¹⁹

¹⁹ Brunea v. Gustin, 775 F. Supp. 844 (W.D. Pa. 1991), and Barren by Barren v. United States, 839 F.2d 987 (3d Cir. 1988), are not to the contrary. In these cases, courts applying Pennsylvania law refused to apply the discovery rule in medical malpractice actions brought by plaintiffs alleging negligent treatment of brain injuries and mental disorders. Unlike the plaintiffs in Greenberg, Person, and Hewczuk, whose failure to discover their injuries was allegedly "brought about by the very nature of the defendant's conduct," the Brunea and Barren plaintiffs failed to discover their injuries due to pre-existing disabilities apart from the injuries inflicted by the wrongful acts.

Greenberg involved a plaintiff who was drugged by the defendant, and prevented by the effects of the drug from promptly discovering her injuries. In recognizing the applicability of the discovery rule to these facts, the Greenber^g court emphasized "the narrowness of the doctrine by which a plaintiff's mental condition may be considered" in determining when discovery of an injury and its cause reasonably should have been made.

As the application of the discovery rule involves a fact-sensitive inquiry, this Court should reverse the entry of summary judgment and remand the case with instructions to let the jury determine whether the delay in discovery was reasonable under the circumstances of this case. "The point of time at which the injured party should reasonably be aware that he or she has suffered an injury is generally an issue of fact to be determined by the jury.... Only where the facts are so clear that reasonable minds cannot differ may the commencement of the limitation period be determined as a matter of law." Sadtler v. Jackson-Cross Co., 402 Pa. Super. 492, 501, 587 A.2d 727, 732 (1991); see also Hayward, 530 Pa. at 325, 608 A.2d at 1042-43. The court below erred in holding that, as a matter of law, no jury could find that Ms. Dalrymple pursued her claim with all reasonable diligence. Indeed, on remarkably similar facts, the Hewczuk court, applying Pennsylvania law, recently reversed an award of summary judgment, leaving for the jury the determination of whether under these extraordinary circumstances the plaintiff's delay was reasonable. Hewczuk, 803 F. Supp. at 1065.

Greenberg, 453 F. Supp. at 769. "It does not mean that plaintiff may offer slow-wittedness, idiosyncratic weaknesses of reasoning or lack of legal sophistication to excuse a failure to discover." *Id.* Rather, the court analogized the drugged plaintiff to one who fails to discover a surgical sponge negligently sewn into his abdomen following an operation: "[S]ince defendant had sewn him up as part of the treatment, `he could not open his abdomen like a door and look in' to discover the cause of his pain." *Id.* at 769 (quoting Avers v. Morgan, 397 Pa. at 289, 154 A.2d at 792). Neither could Ms. Dalrymple reasonably be expected to have opened herself up like a door to discover the cause of her pain when the violence and horror of the assaults had rendered her injury unknowable.

Application of the discovery rule in this case would bring Pennsylvania into line with the clear majority of other jurisdictions, which either through statute²⁰ or through judicial decision²¹ have tolled the applicable statute of limitations in child sexual abuse cases under at least some circumstances. Pennsylvania should do likewise.²²

²⁰ At least twenty-four states have statutes tolling the limitations period for child sexual abuse survivors until the survivor discovers both the sexual abuse and its resulting injury. Alaska Stat. § 09.10.140 (1995); Ark. Code Ann. § 16-56-130 (Michie 1995) (multiple incidents of abuse); Cal. Civ. Proc. Code § 340.1(a) (West 1995); Colo. Rev. Stat. § 13-80-103.7 (1995) (special relationship required between perpetrator and victim); Fla. Stat. Ann. § 95.11 (West 1995); Iowa Code Ann. § 614.8A (West 1995); Kan. Stat. Ann. § 60-523 (1995); Me. Rev. Stat. Ann. tit. 14 § 752-C (West 1995); Mass. Gen. Laws Ann. Ch. 260 § 4C (1995); Minn. Stat. Ann. § 541.073 (1995); Mo. Rev. Stat. § 537.046 (1995); Mont. Code Ann. § 27-2-216(1)(b) (1995); Nev. Rev. Stat. § 11.215 (Michie 1995); N.J. Stat. § 2A: 61B-1 (West 1995); N.M. Stat. Ann. § 37-1-30 (Michie 1996), Okla. Stat. Ann. tit. 12 § 95 (1995); Or. Rev. Stat. § 12.117 (1995); R.I. Gen. Laws § 9-1-51 (1995), S.D. Codified Laws Ann. § 26-10-25 (1996); Utah Code Ann. § 78-12-25.1 (1996); Vt. Stat. Ann. tit. 12 § 522(a) (1995); Va. Code Ann. § 8.01-2.49 (Michie 1995); Wash. Rev. Code Ann. § 4.16.340 (1995); Wy. Stat. § 1-3-105 (1996).

²¹ In addition to those states with statutory discovery rules explicitly applicable to child sexual abuse cases, courts applying the laws of at least seven other jurisdictions have applied the discovery rule in child sexual abuse cases. Farris v. Compton, 652 A.2d 49 (D.C. 1994); Phillips v. Johnson, 599 N.E.2d 4 (Ill. App. 1992); McCollum v. D'Arcy, 638 A.2d 797 (N.H. 1994); Leonard v. En^dland, 445 S.E.2d 50 (N.C. Ct. App. 1994); Osland v. Osland, 442 N.W.2d 907 (N.D. 1989); Ault v. Jasko, 637 N.E.2d 870 (Ohio Ct. App. 1994); Hammer v. Hammer, 418 N.W.2d 23 (Wis. Ct. App. 1987), review denied, 428 N.W.2d 552 (Wis. 1988).

²² Amici believe that a consistent and equitable application of the discovery rule in child sexual abuse cases would extend the rule's applicability both to cases in which traumatic amnesia completely bars all recollection of the assaults ("Type 2" cases) and to cases in which the plaintiff has a continuous memory of the assaults but cannot detect the cause of her injuries for many years ("Type 1" cases). See Johnson v. Johnson, 701 F. Supp. 1363 (N.D. Ill. 1988) (distinguishing between Type 1 and Type 2 cases); A. McD. v. Rosen, 423 Pa. Super. 304, 621 A.2d 128 (1993) (same). Many survivors have a partial recall of sexual abuse but cannot promptly retrieve the most traumatic details, or they discover the connection between their abuse and the harm they have suffered only after a substantial delay. See APA Violence Report, supra note 4; Elliott & Briere, supra at 640. Limiting the application of the discovery rule in child sexual abuse cases to Type 2 cases would bar the valid claims of many survivors with partial recall of the abuse, even though, like those

II. EQUITABLE CONSIDERATIONS WEIGH OVERWHELMINGLY IN FAVOR OF APPLYING THE DISCOVERY RULE TO CHILD SEXUAL ABUSE CASES.

A. Any Added Prejudice to the Defendant or Burden on the Courts from Applying the Discovery Rule in This Case Would Be Vastly Outweighed by the Plaintiffs Interest in Judicial Consideration of Her Claims

The rationales supporting the rigid application of a statute of limitations simply do not apply in the child sexual abuse context, or they apply with far less force than they do in other contexts. First, the "punitive function" served by statutes of limitations, see Resolution Trust Corp., 865 F. Supp. at 1152, to punish litigants who sleep on their rights, is simply inapplicable to litigants injured as children in a way that renders their injuries for a time unknowable. Second, the concern that tolling the statute of limitations may yield stale evidence, while valid, already yields to the more important interest in permitting adults injured as children to recover for wrongs done during their infancy. Already, in all states, the statute of limitations in civil suits is tolled until a child reaches maturity. See, e.g., 42 Pa. Cons. Stat. Ann. § 5533(b) (Supp. 1996) (tolling civil statutes of limitations until child reaches majority). Similarly, existing Pennsylvania law already permits criminal prosecutions for child sexual abuse to be initiated many years after the crime, well into a victim's young adulthood. 42 Pa. Cons. Stat. Ann. § 5552(c)(3) (Supp. 1996) (five-year criminal statute of limitations tolled until child attains majority). Furthermore, to the extent that there is any added deterioration of evidence with the

plaintiffs with no memory at all of their assaults, they may be similarly incapable of discovering their injuries. As Ms. Dalrymple's is a Type 2 case, however, this Court need not decide at this time whether to extend the application of the discovery rule to Type 1 cases.

further passage of time, it would appear that "the passage of time has certainly not enhanced plaintiffs ability to prove her case. Thus, the prejudice seems equally balanced." Hewczuk, 803 F. Supp. at 1065. As an Illinois court recently held, "[T]he manifest injustice of requiring plaintiff to know that which is inherently unknowable outweighs defendant's difficulty of proof in this case. To hold otherwise would deny a remedy to those who survive childhood sexual abuse by suppressing the memory of the abusive acts." Phillips v. Johnson, 599 N.E.2d 4, 7 (Ill. App. Ct. 1992).²³

In practice, the concern that older claims of child sexual abuse will necessarily yield cases weak in proof may be unfounded. Many, if not most, child sexual abuse survivors can corroborate their claims. In a recent study, 74% of subjects who had experienced sexual abuse as children who attempted to obtain verification or external corroboration were able to do so. Herman & Schatzow, supra, at 10 (finding that 40% of subjects corroborated by perpetrator, family, or physical evidence; 34% by other victims, often siblings). Accord Shirley Feldman-Summers & Kenneth S. Pope, The Experience of "Forizettin" Childhood Abuse: A National Survey of Ps cholo fists, 62 J. Consulting and Clinical Psychology 636, 637-38 (1994) (corroborative evidence was found by 46.9% of those who had retrieved memories of childhood abuse).

²³ As summary judgment was granted in this case before the development of a full trial record and even before completion of discovery, the record before this Court does not reflect corroborative proof and additional physical and expert evidence that may be produced should this case be permitted to proceed to trial. See Osland v. Osland, 442 N. W.2d 907, 909 (N.D. 1989) ("concern about the availability of objective evidence should not preclude application of the discovery rule" in case affirming award of damages to adult daughter who sued her father for childhood sexual abuse).

Finally, the defendants' interest in repose weighs comparatively lightly in the child sexual abuse context. As one court cogently concluded in an analogous case involving intrafamilial child sexual assault:

The policy justification for applying the statute of limitations to protect defendants from "the threat of liability for deeds in the past" is unpersuasive in incestuous abuse cases.... Further, "the injustice of barring meritorious claims before the claimant knows of the injury outweighs the threat of stale or fraudulent actions."

Hammer v. Hammer, 418 N.W.2d 23, 27 (Wis. Ct. App. 1987) (citations omitted), review denied, 428 N.W.2d 552 (Wis. 1988).

In truth, even the application of the discovery rule will not indefinitely prevent the statute of limitations from running, and even where the rule is applied, plaintiffs must still prove their case. For many plaintiffs, these hurdles will prove too high. However, if this Court were to refuse to recognize the applicability of the discovery rule in child sexual abuse cases, other litigants with a wealth of corroborative proof, even with confessions from their abusers, could be precluded from pursuing their rightful civil claims if their amnesia does not abate before age twenty.²⁴ Such a result is unwarranted by any competing policy considerations and would be profoundly unjust.

B. The Public Interest in Permitting Civil Actions by Adult Survivors of Child Sexual Abuse Is Compelling.

As discussed supra, child sexual abuse is typically shrouded in the deepest secrecy and the majority of incest victims do not reveal their victimization to anyone while living

²⁴ Such a rigid limitation would preclude the vast majority of claims involving child sexual abuse. See Kendall-Tackett, supra (finding mean of 17 years between abuse and treatment).

at home. Judith L. Herman, Father-Daughter Incest 70 (1981). Since most children do not have the capacity to understand, much less to reveal, their abuse while it is occurring and since most reported cases are not prosecuted successfully to conviction, criminal remedies are inadequate.²⁵ Access to civil lawsuits is therefore many survivors' only hope for justice.

To rule that a child of tender years who is sexually abused, but promptly "forgets" the trauma and is not conscious of the wrong until the curtain of repression is lifted later in life, is barred as a matter of law from claiming damages because of the two-year statute of limitations, would be to declare that, in virtually all cases involving sexual abuse of young children committed in secret and not discovered by others at the time, the wrongdoer would be immunized from both criminal and civil consequences.

Hewczuk, 803 F. Supp. at 1065. Without consistent application of the discovery rule in the child sexual abuse context, survivors will have no adequate legal remedy for the harm they suffer.

Particularly because survivors may have no other remedy, the public interest in permitting them to bring civil actions for their injuries is compelling. One commentator persuasively argues that:

If sexual abuse of young children is a pattern of behavior that we as a society abhor and want to eliminate, there is no justification for maintaining a system of law that prevents survivors from holding their abusers accountable. The judiciary must recognize and come to understand the

²¹ See Rebecca L. Thomas, Note, Adult Survivors of Childhood Sexual Abuse and Statutes of Limitations: A Call for Legislative Action, 26 Wake Forest L. Rev. 1245, 1248 (1991) (reporting low criminal prosecution and conviction rates), Jocelyn B. Lamm, Note, Easing Access to the Courts for Incest Victims: Toward an Equitable Application of the Delayed Discovery Rule, 100 Yale L.J. 2189, 2189 (1991) (emphasizing that criminal action is rarely initiated and prosecuted); Russell, supra, at 85-86 (only 5% of 648 cases of childhood sexual abuse were reported to police and only 1% of cases resulted in conviction).

trauma and long-term effects of childhood sexual abuse and must allow survivors their day in court.

Alan Rosenfeld, The Statute of Limitations Barrier in Childhood Sexual Abuse Cases: The Equitable Estoppel Remedy, 12 Harv. Women's L. 1206, 219 (1989). This Court should follow the growing trend of judicial authority in providing access to redress for child sexual abuse survivors by applying the discovery rule to this case.

CONCLUSION

For the foregoing reasons, amici respectfully request that this Court reverse the Superior Court's order affirming the entry of summary judgment, and remand the case to permit the fact-finder to determine whether delayed discovery was reasonable under the extreme and tragic circumstances of this case.

Respectfully submitted,



LYNN HECHT SCHAFRAN*
YOLANDA WU*
JULIE GOLDSCHIED*
NOW Legal Defense
and Education Fund
99 Hudson Street
New York, New York 10013
(212) 925-6635

Of Counsel

CAROL E. TRACY
I.D. No. 40258
LINDA J. WHARTON
I.D. No. 34741
SUSAN FRIETSCHE
I.D. No. 65240
Women's Law Project
125 South Ninth Street, Suite 401
Philadelphia, PA 19107
(215) 928-9801

Attorneys for Amid Curiae

*Not admitted to practice in Pennsylvania.

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APPENDIX

STATEMENTS OF INTEREST OF AMICI CURIAE

International Society for Traumatic Stress Studies

The International Society for Traumatic Stress Studies (ISTSS) is a non-profit scientific and professional organization consisting of internationally-recognized researchers and clinicians in the field of traumatic stress studies. Its goals are to improve the treatment of trauma victims, increase public awareness of the effects of trauma, and promote the most rigorous research on the impact of trauma, including research on traumatic memory. ISTSS publishes peer-reviewed research, hosts conferences, and recognizes significant advances in the study of trauma.

Family Violence & Sexual Assault Institute

The Family Violence & Sexual Assault Institute is a non-profit corporation serving professionals who work with victims and offenders of family violence and sexual assault. The Institute is a national resource center and clearinghouse for information on these matters for researchers, agencies, organizations, and other practitioners.

Support Center for Child Advocates

The Support Center for Child Advocates provides legal assistance and social service advocacy to abused and neglected children in Philadelphia. For all the children committed to the Support Center's care, lawyers and social workers advocate to ensure safety, health, education, family permanency, and access to justice. Respected for diligent and effective advocacy, Support Center attorneys and social workers move public systems to deliver entitled services and private systems to open their doors to needy children and

their families. The Support Center also provides educational programs to increase public awareness about the problems of and ways to prevent child abuse.

Pennsylvania Coalition Against Rape

The Pennsylvania Coalition Against Rape (PCAR) is a private, non-profit, tax-exempt coalition organization of fifty-four rape crisis centers providing service to victims of sexual assault in fifty-eight counties in the Commonwealth of Pennsylvania. PCAR member centers provide services to adult survivors of rape, incest, and childhood sexual abuse and assault.

PCAR also advocates for the rights and needs of victims of sexual violence. PCAR strongly believes that many children who suffer sexual abuse are not able to recall memories of the heinous abuse until some time into their adulthood. Because recognition of the abuse is necessary for survivors' successful recovery from the traumatic effects of sexual assault, PCAR supports extending the civil statute of limitations for adult survivors of child sexual assault.

Pennsylvania Coalition Against Domestic Violence

The Pennsylvania Coalition Against Domestic Violence, Inc. (PCADV) is a not-for-profit organization incorporated in the Commonwealth of Pennsylvania for the purpose of providing services and advocacy on behalf of victims of domestic violence and their minor children. PCADV is a membership organization of sixty-four shelters, hotlines, counseling programs, safe home networks, legal advocacy projects and transitional housing projects for battered women and their dependent children in the Commonwealth. For twenty years, PCADV has provided training and technical assistance

to domestic violence programs, members of the bar association, the courts, and law enforcement agencies on issues of domestic violence, custody, and victimization.

The use of death threats, in conjunction with actual physical and sexual abuse, is a common method by which abusers seek to control their victims and keep the abuse secret. As a way of surviving the horrific trauma inflicted on their bodies, many victims experience memory loss of the abuse.

For a victim of child sexual violence finally to recover such memories and choose to take action, only to be told that the statute of limitations bars his or her claim, represents the ultimate in legal unfairness and re-victimization. Such a ruling would allow a defendant to escape all consequences of his wrongful acts, despite the fact that it is precisely his reprehensible conduct that caused the victim's memory loss.

Justice demands that adults who have been sexually abused as children get their chance to be heard and to prove their allegations in court. PCADV strongly believes that for child sexual abuse and other forms of abuse to end, the judicial system must allow abusers to be held accountable.

Pennsylvania National Organization for Women

Pennsylvania National Organization for Women (PA-NOW) is a membership organization whose purpose is to "bring women into full participation in the mainstream of American society." Nationally, NOW is the largest women's rights organization in the country. It is the leading advocate of women's equality in all areas of life. One of NOW's top priorities is the eradication of sexual assault and child sexual abuse.

Northwest Women's Law Center

The Northwest Women's Law Center is a non-profit public interest organization dedicated to protecting the legal rights of women through litigation, education, legislation, and the provision of legal information and referral services. Since its founding in 1978, the Law Center has worked actively on all fronts to protect and advance the legal rights of women throughout Washington and the Pacific Northwest.

The Law Center has a long history of advocacy on behalf of adult survivors of childhood sexual abuse. In particular, the Law Center has been involved with issues relating to how the particular psychological and social consequences of child sexual abuse interfere with the ability of adult survivors of abuse to identify and pursue legal claims related to the abuse. The Law Center has been a leader in the Northwest in drafting and working on behalf of passage of legislation extending the statute of limitations for claims based on child sexual abuse. The Law Center assisted Montana advocates in drafting and working on behalf of passage of legislation extending the statute of limitations for claims based on childhood sexual abuse and worked for passage of a similar statute in Washington state. The Law Center also appeared in courts in Montana and Washington defending the constitutionality of those statutes. Moreover, the Law Center has participated as amicus curiae in cases throughout the country on the issue of extending the statute of limitations for childhood sexual abuse.

NOW Legal Defense & Education Fund

NOW Legal Defense & Education Fund is a leading national non-profit civil rights organization that performs a broad range of legal and educational services in support of

women's efforts to eliminate sex-based discrimination and to secure equal rights. NOW LDEF was founded as an independent organization in 1970 by leaders of the National Organization for Women. NOW LDEF has been engaged on many fronts in efforts to eliminate gender-motivated violence. Most notably, NOW LDEF chaired the national task force that was instrumental in passing the historic Violence Against Women Act (the "Act"). It maintains a national legal clearinghouse tracking legal developments under the Act. NOW LDEF has participated as counsel and as amicus curiae in numerous cases in support of the rights of women who have been the victims of domestic and other gender-motivated violence, including women who have survived incest and childhood sexual abuse.

National Association of Social Workers, Inc.

The National Association of Social Workers (NASW), a non-profit professional association with approximately 150,000 members, is the largest association of social workers in the world. The association is devoted to promoting the quality and effectiveness of social work practice, to advancing the knowledge base of the social work profession, and to improving the quality of life for all people. NASW has fifty-five chapters. The Pennsylvania Chapter of NASW has a membership of over 6,400.

NASW has adopted and promulgated standards for the social work profession, including the Standards for the Practice of Clinical Social Work. The organization has also developed the NASW Code of Ethics, which is the primary code of professional conduct for the social work profession.

NASW supports the development of programs and policies that address issues of family violence and appropriate reporting, referral, and intervention techniques. A 1993 policy statement on family violence outlines NASW's commitment to education and prevention strategies for addressing family violence. Among NASW's strategies are educating the public to recognize and reject common myths and stereotypes that foster family violence, raising awareness of the prevalence and the financial and emotional costs of family violence, and holding accountable those who promote or perpetuate violence.

Women Organized Against Rape

Women Organized Against Rape (WOAR) was founded in 1973 for the purpose of fighting sexual violence and assisting survivors of sexual assault and sexual abuse throughout Philadelphia. WOAR provides a range of services for over 6,000 children and adults annually through a combination of staff and volunteers. These services include counseling and information through a twenty-four hour hotline; accompaniment for survivors in emergency rooms, court accompaniment and advocacy, and short-term counseling.

WOAR has provided specialized services for young survivors of sexual assault and their families since 1979. Today, children, adolescents, and their families account for nearly half of the organization's total client population. WOAR also provides community education programs about sexual assault prevention. Children and adolescents often disclose experiences of sexual assault during these programs.

Based on their extensive experience counseling young sexual assault victims for almost twenty years, WOAR strongly supports the position that the statute of limitations should not be rigidly applied in cases of child sexual abuse.

Women's Law Project

The Women's Law Project is a non-profit, feminist legal advocacy organization in Pennsylvania. Founded in 1974, the Law Project works to abolish discrimination and injustice and to advance the legal and economic status of women and their families.

The Law Project is committed to ending violence against women and children and to safeguarding the legal rights of women and children who experience sexual abuse and violence. Toward that end, the Law Project has advocated for application of the delayed discovery rule in other jurisdictions, and has participated as amicus curiae in similar suits in other states.

CERTIFICATE OF SERVICE

I hereby certify that on October 2, 1996, I caused to be served two true and correct copies of the foregoing Brief of Amici Curiae International Society for Traumatic Stress Studies, Family Violence and Sexual Assault Institute, Support Center for Child Advocates, Pennsylvania Coalition Against Rape, Pennsylvania Coalition Against Domestic Violence, National Association of Social Workers, Women Organized Against Rape, Pennsylvania National Organization for Women, Northwest Women's Law Center, NOW Legal Defense and Education Fund, and Women's Law Project, upon the following by First-Class Mail, Postage Pre-paid, which service satisfies the requirements of Pa.R.A.P. 121:

James C. Sargent, Jr.
Andrea B. Pettine
Lamb, Windle & McErlane, P.C.
24 East Market Street
Post Office Box 565
West Chester, PA 19381-9565
Counsel for Appellant

Andrew J. Forbes
Cramp, D'Iorio, McConchie & Forbes, P.C.
215 North Olive Street
Media, PA 19063
Counsel for Appellee



Susan Frietsche
I.D. No. 65240
Women's Law Project
125 South Ninth Street
Suite 401
Philadelphia, PA 19107
(215) 928-9801

